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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 DELBERT MARSHALL GREENE,
10

11 *Petitioner,*

12 vs.

13 WARDEN DWIGHT NEVEN, *et al.*
14

15 *Respondents.*

2:06-cv-01009-RCJ-RJJ

ORDER

16 This habeas matter comes before the Court for initial review under Rule 4 of the Rules
17 Governing Section 2254 Cases. The filing fee has been paid, and the Court therefore will
18 vacate its prior show cause order regarding satisfaction of the filing fee requirement.

19 Turning to initial review, Local Rule LSR 3-1 requires that a *pro se* habeas petitioner
20 must use the Court's required petition form. Petitioner filed on a petition form for a Section
21 2241 petition. Petitioner, however, is in custody pursuant to a state court conviction. He
22 therefore must use the Court's Section 2254 form.

23 Further, petitioner attaches an unverified memorandum in support of his petition. He
24 instead must set forth all of his claims, allegations and contentions within the body of the
25 petition form itself. He may use additional pages within the form to set forth each claim if
26 necessary, but he nonetheless must set forth his claims entirely within the body of the verified
27 petition. He may not use an attached memorandum to set forth his claims, allegations and
28 contentions.

1 Moreover, petitioner must attach with the petition copies of all state court written
2 decisions and orders regarding his conviction and sentence. The materials attached with the
3 current petition suggest that petitioner filed a state post-conviction petition on or about
4 February 7, 2005, that the state district court denied the petition, that the Supreme Court of
5 Nevada affirmed the denial of state post-conviction relief on or about September 16, 2005,
6 and that petitioner moved for reconsideration in the state high court. The attachments further
7 reflect that petitioner filed a *pro se* state petition for a writ of habeas of corpus on or about
8 August 12, 2002, during the pendency of his criminal proceedings, in which he was
9 represented by counsel. Petitioner has not attached written decisions or orders by the state
10 district court or the Supreme Court of Nevada with regard to either petition. He must attach
11 copies of all such orders, including any order denying rehearing as well as any remittitur
12 issued by the Supreme Court of Nevada.

13 IT THEREFORE IS ORDERED that this Court's show cause order (#5) is VACATED
14 following upon petitioner's payment of the filing fee.

15 IT FURTHER IS ORDERED that the Clerk of Court shall file the petition but shall
16 withhold service at this time.

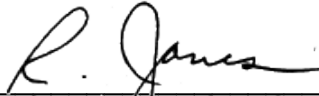
17 IT FURTHER IS ORDERED that, within thirty (30) days of entry of this order, petitioner
18 shall file a fully verified amended petition on the Court's required Section 2254 form and shall
19 attach copies all state court written decisions or orders regarding his conviction and sentence,
20 including any remittiturs issued. Under Local Rule LR 15-1, any amended petition filed must
21 be complete in itself without reference to previously filed papers. Thus, the claims and
22 allegations that are stated in the amended petition will be the only matters remaining before
23 the Court. Any claims or allegations that are left out of the amended petition or that are not
24 re-alleged in the amended petition no longer will be before the Court.

25 IT FURTHER IS ORDERED that petitioner shall clearly title the amended petition as
26 an amended petition by placing the word "AMENDED" immediately above "Petition for a Writ
27 of Habeas Corpus" on page 1 in the caption and shall place the docket number, 2:06-cv-
28 01009-RCJ-RJJ, above the word "AMENDED."

1 IT FURTHER IS ORDERED that this action may be dismissed without prejudice
2 without further advance notice if petitioner fails to fully and timely comply with this order.

3 IT FURTHER IS ORDERED that the Clerk of Court shall send petitioner two copies of
4 a Section 2254 petition form and a copy of the petition and papers that he submitted.

5 DATED this 13th day of December, 2006.

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ROBERT C. JONES
United States District Judge